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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Luxembourg

1. Introduction: Overview of the legal and institutional framework of Luxembourg in the context of implementation of the United Nations Convention against Corruption

Luxembourg signed the United Nations Convention against Corruption during the High-level Political Conference in Mérida (Mexico) on 10 December 2003. The Convention was ratified by an Act adopted by the national Parliament on 10 July 2007 and signed by the Grand Duke on 1 August 2007. Luxembourg deposited its instrument of ratification with the Secretary-General of the United Nations on 6 November 2007.

Luxembourg is a State member of the European Union, the OECD, the Council of Europe's Group of States against Corruption (GRECO), MONEYVAL and FATF.

According to a long established jurisprudence of Luxembourg's Supreme Courts (*Cour de cassation, Cour constitutionnelle* and *Cour administrative*, generally accepted rules of international law and international conventions, once they have been ratified by an act of Parliament and have come into effect, shall form an integral part of Luxembourg's domestic law and shall override any other contrary provision of domestic law. Accordingly, the Convention has become an integral part of Luxembourg's domestic law.

The most relevant implementation legislation is found in the Criminal Code (Code Pénal, "CP"), the Criminal Procedure Code (Code d'Instruction Criminelle, "CIC") and in special laws.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

The provisions on active and passive bribery are contained in articles 246, 247, 249 and 250 CP.

The law does not contain a definition of "public official". Nevertheless, the law and an explanatory note refer to a "depositary or law enforcement agent, or a person in charge of a public service mission or vested with a public election mandate" (arts. 246, 247, 249 CP). With regard to agents of public companies and foreign officials, the same concepts and definitions apply as for national officials.

Unilateral corruption through the simple offering or giving of a bribe has been introduced into the CP by the Law of 15 January 2001. There is no longer a requirement of a "corruption pact". Concerning the concept of "undue advantage", the law in force does not allow any exemptions for facilitation payments. The legal texts do not distinguish whether the official acts in violation of his duties or not.

Trading in influence is criminalized in articles 246 to 249 CP. However, it is only criminalized to the extent that one intends to "obtain from an authority or a public administration any distinction, employment, public tender or any other favourable

decision". On the other hand, the offence is completed even if it does not achieve the desired result.

Article 21 of the Convention is implemented through article 310-1 CP. Luxembourg law goes beyond the requirements of the Convention in that it applies equally outside the context of business activities. However, the national legislator has retained the formula "without the knowledge and authorization".

Money-laundering, concealment (arts. 23 and 24)

Luxembourg has criminalized money-laundering through the provisions in articles 506-1 to 506-8 CP. While Luxembourg has opted for a list of predicate offences, the last indent of article 506-1(1) CP means that, due to the low minimum penalty of 6 months imprisonment, in practice Luxembourg almost has an all-crimes approach to money-laundering. In particular, all corruption offences are specifically covered by a separate indent.

Attempt, preparation and conspiracy to commit money-laundering, as well as complicity are covered by articles 506-1(4), 506-4, 506-5 and 506-6 CP, as well as through the general provisions in articles 66 and 67 CP (authors and accomplices of crimes). Article 506-4 CP explicitly provides for the criminalization of self-laundering.

Concealment is covered by the provisions in articles 505 and 506 CP.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

The domestic provisions which correspond to article 17 of the Convention are article 240 CP (embezzlement) and article 491 (breach of trust). Article 171-1 of the Corporations Act criminalizes the embezzlement of property in the private sector in a broad manner, also penalizing the exercise of powers contrary to the interests of the company. On the other hand, only managers, de jure or de facto, may be perpetrators of the offence.

Luxembourg has implemented article 19 of the Convention through articles 240, 243, 244 and 245 CP.

Luxembourg's National Anti-Corruption Committee (COPRECO) discussed the possibility of criminalizing illicit enrichment (Art. 20 of the Convention) but decided not to recommend this legal change to the government because this would in practice put the burden of proof on the suspect, which was considered to be incompatible with the fundamental legal principle of the presumption of innocence.

Obstruction of justice (art. 25)

The national authorities reported the adoption and implementation of article 25 (a) of the Convention through 140, 141, 223, 224, 251 to 253 and 282 CP.

Article 25(b) of the Convention is implemented through articles 140, 141, 251 to 253 and 275 et seq. CP.

Liability of legal persons (art. 26)

Luxembourg cited articles 34 to 40 CP. Article 26, paragraphs 1 and 2, of the Convention is implemented through article 34 CP. The persons who can incur the

liability of the legal person are the members of its boards or its de jure or de facto managers (art. 34 CP).

The reviewing experts noted the large scope *rationae materiae* and *personae* of the liability of legal persons which covers all crimes and offences and includes all legal persons, including those governed by public law (except for the State and the communes) and public enterprises. Moreover, corporate criminal liability is supplemented by administrative sanctions (art. 203 *Loi modifiée du 10 août 1915 sur les sociétés commerciales*).

According to article 34(2) CP, the liability of legal persons is independent from the liability of the individual who commits the offence. Conversely, the Luxembourg courts have held that criminal liability of legal persons may be examined even when the organ or the representative may not have been effectively prosecuted and convicted of the offence.

Bearing in mind that the legislation on the criminal liability of legal persons was only enacted in 2010, the reviewing experts noted the absence of criminal sanctions for corruption-related offences imposed on legal persons to date.

Participation and attempt (art. 27)

Luxembourg has adopted and implemented article 27(1) of the Convention through the provisions in articles 66 to 69 CP. Attempt is governed by articles 51 and 52 CP. Luxembourg pointed out that as far as corruption offences are concerned, there was little practical application for the general rules on attempt. Simple preparatory acts are not criminalized under Luxembourg's law.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

The law distinguishes between different categories of offences (*crime*, *délit*, *contravention*) and the gravity of the offence can be taken into account due to the range of sentences for each offence. The level of sanctions for corruption offences is adequate.

The only public officials who enjoy a very limited immunity are the members of Parliament and the Grand Duke. Only the arrest of an MP during a parliamentary session requires prior approval by Parliament (Art. 68, 69 of the Constitution). However, Article 116 of the Constitution vests Parliament with the discretionary power to pursue itself criminal proceedings against a member of the Government.

Luxembourg has a discretionary prosecution system and is not governed by the principle of mandatory prosecution. However, prosecution is the rule, particularly for offences punishable with prison sentences, like corruption offences.

A defendant who does not show up voluntarily at court proceedings can be arrested (art. 119 CIC). The regulation about parole can be found in articles 116, 119 and 94 CIC, as well as articles 619 et seq. CIC and article 100 CP.

Article 30(6) of the Convention is implemented through articles 48 and 49 of the Civil Servants Act.

Luxembourg has established procedures for the disqualification of persons convicted of corruption offences from holding public office in articles 7, 10, 11, 14 CP and articles 48 and 49 of the Civil Servants Act.

Luxembourg can apply disciplinary and criminal sanctions simultaneously.

The legislation promotes the reintegration into society of persons convicted of offences. The reintegration into society of offenders is governed by articles 644 to 658 et seq. CIC and the Law on Penitentiary Administration. Moreover, there is the Law on the execution of penalties.

While in terrorism, organized crime and drug trafficking cases there is a possibility for granting crown witnesses immunity, this possibility does not exist in corruption cases. However, in such cases, the cooperation of the offender can be taken into account to mitigate the punishment.

Protection of witnesses and reporting persons (arts. 32 and 33)

The non-disclosure of the identity of a witness is possible in the very special case of covert investigation.

Luxembourg further cooperates with other States in the field of witness protection. Given the small size of the country, there are no formal witness protection programmes in Luxembourg.

The protection of reporting persons has been implemented through the Act of 13 February 2011 on whistle-blower protection. The Labour Act lays down a reversal of the burden of proof for cases of retaliatory dismissal in article L.271-2. Civil servants are not only protected from reprisals but are actually obliged to report instances of corruption. Transparency International (TI) Luxembourg has established a hotline for whistle-blowers which is financed by the State.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

The domestic legal framework on freezing, seizing and confiscation can be found in articles 7, 14, 19, 21, 31, 32, 32-1 CP. These chapters cover not only proceeds of crime, but also instrumentalities used, or intended to be used, in the commission of a crime.

Luxembourg has not established an asset management agency to specifically dispose of frozen, seized or confiscated property. The administration of frozen or seized property is handled by the State. In cases related to drug trafficking, money-laundering or financing of terrorism, the property is transferred by the State to the Asset Forfeiture Fund (*Fonds de lutte contre certaines formes de criminalité*).

Proceeds of crime that have been transformed or converted, in part or in full, into other property, is liable to freezing and confiscation.

Confiscation can also comprise banking documentation if it was considered an instrument of the offence. Otherwise, if it was considered evidence, it would form part of the case file and would be destroyed or given back to its legitimate owner at the closing of the case (arts. 31-35, 65, 66, 66-1 to 66-5, 67, 67-1 CIC). Luxembourg does not have a central register of bank accounts. Following the introduction of articles 66-4 and 66-5 CIC, the investigating judge may order a credit institution to provide information or documents concerning bank accounts or

banking transactions through a simplified procedure. According to this procedure, the order may be served to the credit institution concerned by way of a notification made electronically. The credit institution notified by the order shall communicate the information or documents requested electronically to the investigating judge within the time period indicated in the order. Non-compliance with such an order is punishable by a fine of 1,250 to 125,000 euros (article 66-5 (3) CIC). Moreover, banks cooperate with the FIU and are criminally liable for Know-Your-Customer statements.

In accordance with article 31 (8) of the Convention, Luxembourg has considered the possibility of requiring that an offender demonstrates the lawful origin of alleged proceeds of crime or other property liable to confiscation but decided not to do so because such a requirement was considered to be inconsistent with the fundamental legal principle of the presumption of innocence. However, the principle of the free assessment of the evidence equally applies to the lawful or illegal origin of alleged proceeds of crime.

The rights of bona fide third parties are protected under articles 31(4), 32-1(4) CP.

Statute of limitations; criminal record (arts. 29 and 41)

The rules about the statute of limitations are regulated in articles 91 to 99 CP and articles 635 to 643 CIC. The prescription period for the prosecution of crimes is 10 years, and 5 years in the case of misdemeanours (art. 637 and 638 CIC). Prescription of corruption cases generally commences the moment in which the acts are committed. Prescription is interrupted each time evidence is taken or proceedings are brought. The issuing of an arrest warrant would restart the clock.

In the determination of the punishment the court has the possibility to take into consideration any previous, including foreign, conviction (art. 7-5 CIC).

Jurisdiction (art. 42)

The rules about jurisdiction in criminal cases are regulated in the CIC. Luxembourg has implemented the territoriality principle and both the active and passive personality principle for establishing jurisdiction. Luxembourg courts have jurisdiction over crimes committed by its nationals outside its territory without a requirement for dual criminality (art. 5(1) CIC). For misdemeanours, dual criminality is required.

The simple fact of keeping money stemming from certain predicate offences in an account in Luxembourg would constitute money-laundering and thus establish Luxembourg's jurisdiction over the case.

Luxembourg can establish its jurisdiction over the offences established in accordance with the Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals (art. 5-1 CIC).

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Under Luxembourg law, corruption does not make a contract void *ipso iure*, only voidable. In private law proceedings, a contract can be rescinded or a concession revoked for reasons of fraud. Moreover, public procurement law contains specific

administrative sanctions for corruption offences. A criminal record for natural and legal persons exists.

Compensation for damage is available and can be claimed under articles 56 to 62 CIC by the civil party in criminal proceedings.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Luxembourg does not have a specialized anti-corruption body. Rather, the fight against corruption is the task of the criminal police and the prosecution service. Within the Luxembourg police as well as within the Prosecutor's office, a certain number of people are specialized in combating corruption (i.e. by special training) and are responsible for corruption cases. Prosecutors and Judges have the same status under Luxembourg law, ensuring their independence. The police are administratively independent. The *police judiciaire* act under the supervision of the prosecutor general, but under the sole orders of the investigating magistrate if acting in a specific file.

Luxembourg has a judicial type FIU which is not limited in its investigations by the facts contained in a suspicious transaction report. The FIU is staffed by prosecutors who have powers similar to those of an investigating judge.

Luxembourg has established a horizontal committee for the prevention of corruption (the "COPRECO"). COPRECO can invite representatives from the private sector and civil society.

The 2008 Act on Cooperation contains an obligation for spontaneous information sharing between national authorities. Moreover, civil servants are obliged to report corruption offences (art. 23 CIC). The public authorities are regularly organizing workshops and conferences on the subject of corruption with the private sector. Luxembourg is granting financial support to TI to run an anti-corruption hotline where persons can report suspicious acts linked to corruption.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing Chapter III of the Convention are highlighted:

- (Art. 21) Luxembourg law goes beyond the requirements of the Convention in that it applies equally outside the context of business activities;
- (Art. 22) The broad scope of application of the provision criminalizing embezzlement in the private sector;
- (Art. 30) The granting of immunities to members of parliament only, thus strictly limiting the number of officials enjoying this privilege;
- (Art. 33) The specific protection against reprisals in the Labour Act introduced by the Whistleblower Protection Act;
- (Art. 36) The far-reaching powers of its FIU and the independent status of the prosecutors which is akin to that of judges;
- (Art. 42) The absence of the requirement of double criminality for the establishment of criminal jurisdiction over extraterritorial offences other than misdemeanours committed by nationals of Luxembourg.

2.3. Challenges in implementation

While noting Luxembourg's advanced anti-corruption legal system, the reviewers identified some challenges in implementation and/or grounds for further improvement and made the following remarks to be taken into account for action or consideration by the competent national authorities (depending on the mandatory or optional nature of the relevant Convention requirements). Moreover, they noted, as a general observation, that more statistics, examples and case law in many areas could have better demonstrated the implementation of the Convention in practice.

- (Art. 18) Bearing in mind the optional nature of the provision, the reviewing experts recommend that Luxembourg consider monitoring the jurisprudence pertaining to trading in influence in order to establish if the law is comprehensive enough to cover any "undue advantage";
- (Art. 20) Bearing in mind the decision not to criminalize illicit enrichment, the reviewing experts recommend strengthening existing asset declaration systems and introducing such systems for high-ranking officials;
- (Art. 26) The reviewing experts recommend that Luxembourg consider amending the existing legislation so that the level of authority of the person whose conduct triggers the liability of the legal person is flexible and reflects the wide variety of decision-making systems in legal persons. Moreover, Luxembourg is requested to monitor the jurisprudence on the criminal liability of legal persons;
- (Art. 30) The reviewing experts voiced concern about the rule in article 116 of the Constitution, vesting Parliament with the discretionary power to pursue itself criminal proceedings against a member of Government. They recommend the adoption of a comprehensive system of prosecution of members of Government as foreseen in draft bill n°6030 on the revision of the Constitution;
- (Art. 32) Given the small size of the country the reviewing experts recommend applying the ad hoc protection arrangements for witnesses with neighbouring countries to cases of corruption.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

The basic provisions on extradition are found in the Extradition Law of 20 June 2001. This law applies in the absence of bilateral or multilateral agreements and without prejudice to the applicability of the Framework Decision of 13 June 2002 on the European Arrest Warrant (EAW) and the surrender procedures between States members of the European Union. The Law of 17 March 2004 on the EAW and the surrender procedures between States members of the European Union, as modified by Law of 3 August 2011, implements the above-mentioned Framework Decision.

The threshold for the identification of extraditable offences is at least one year of imprisonment in the event of a request for extradition for prosecution purposes or a

remainder of sentence of at least six months where extradition is requested for purposes of enforcement of such sentence. The requirement of dual criminality is applied, but with a focus on the underlying conduct. Therefore, a flexible approach is taken on the interpretation of this requirement. In addition, the law of 17 March 2004 stipulates that the EAW could be executed without dual criminality in cases of corruption and laundering of proceeds of crime, provided that the related offences are punishable in the issuing State by a penalty or a measure of deprivation of liberty of a maximum of at least 3 years.

Luxembourg may extradite even in the absence of an international treaty or convention, applying the domestic law. The Convention has direct force of law by virtue of the primacy of international treaties. Therefore, most of its extradition-related provisions are directly applicable without the need for implementing legislation. Almost all offences under the Convention have been covered by domestic legislation. Additionally, reciprocity could be used as a legal basis.

The formalities and information necessary in order to process a request for extradition are set forth in article 10 of the EAW Law and article 23 of the Extradition Law which provide simplified extradition proceedings.

In the framework of the EAW, the person sought may consent to his/her surrender without further formality. He/she may also waive the rule of specialty. Under the national law of extradition, the lifting of the specialty rule is possible on the advice of the Council Chamber of the Court of Appeal and subject to the consent of the person sought.

The Extradition Law provides for the provisional arrest of the person sought to ensure his/her presence in extradition proceedings.

The Extradition Law sets out the principle of *aut dedere, aut judicare*. It establishes nationality as one of the grounds for refusal of an extradition request. Extradition may also be refused if the person sought is a foreigner who resides permanently in the Luxembourg and if extradition is considered inappropriate due to his integration or to the community ties that he has built in Luxembourg, provided however that he may be prosecuted in Luxembourg for the facts for which the extradition is requested. Where a request for extradition is refused on the ground of nationality, the authorities forward the case to prosecution authorities without delay, the prosecution in lieu of extradition is also possible through the direct application of treaties. The Act of 27 October 2010 has completed the Act of 20 June 2001 by inserting article 14-1, in application of the principle "aut dedere aut judicare".

Safeguards of due process guarantee all human rights of the person sought from the moment of his/her arrest and throughout the extradition process. Article 6 of the European Convention of Human Rights is applied by the courts in domestic extradition proceedings.

Luxembourg does not refuse extradition for tax offences if the latter are related to other extraditable offences (accessory extradition). Although article 1(6) of the Extradition Act simply states that "[e]xtradition shall not be granted for offences on issues of taxes and levies, customs and foreign exchange", extradition is only denied if the relevant request is based exclusively on tax offences. The national authorities

confirmed that fiscal offences do not pose difficulties in corruption-related investigations.

Under article 1 of the Law on the Transfer of Sentenced Persons, if the Luxembourg national who has been the subject of a final conviction by a foreign jurisdiction and who evades the enforcement of that condemnation seeks refuge in Luxembourg, Luxembourg can take responsibility for the execution of this condemnation at the request of the State which has pronounced the final sentence. Luxembourg has not entered yet into a bilateral agreement on this matter. The transfer of sentenced persons is possible on the basis of the Convention on the Transfer of Sentenced Persons of 1983 and its Additional Protocol of 1997. The Act of 25 April 2003 is applied in the absence of applicable multilateral or bilateral conventions.

Luxembourg has no specific law concerning the transfer of criminal proceedings. In practice, the transfer is possible and is decided upon by the competent judicial authorities of Luxembourg and the other country concerned.

Mutual legal assistance (art. 46)

The legal framework for mutual legal assistance (MLA) is set out in Law of 8 August 2000. In addition, Luxembourg has entered into a number of bilateral and multilateral agreements on MLA. The Convention could be used as legal basis. MLA can also be afforded on the basis of reciprocity.

The General Prosecutor's Office has been designated as the central authority for MLA. Luxembourg does not require a formal decision of the requesting State, but the request must come from a competent judicial authority. The request must also relate to an investigation, prosecution or judicial proceedings in the requesting State.

MLA can be requested and obtained for all the purposes set forth in article 46, paragraph 3, of the Convention. It may also be provided in relation to alleged offences involving legal persons, according to Law of 3 March 2010. The Convention can be used as the basis for spontaneous transmission of information outside the European Union framework.

Although bank secrecy is not mentioned in the domestic legislation, the national authorities confirmed that bank secrecy does not pose difficulties in corruption-related investigations.

MLA may be refused if it is likely to endanger the national sovereignty or jeopardize security or pose a threat to public order or harm other essential national interests; and if the assistance is requested for political offences.

In addition, article 3 of the Law of 8 August 2000, as amended by article 10 of the Law of 27 October 2010 relating to the Fight against Money Laundering and Terrorist Financing, indicates that "[s]ubject to the provisions of conventions, a request for MLA is refused if it exclusively involves offences related to taxes, customs duties or currency exchange under Luxembourg law".

Dual criminality is not required to grant MLA requests, unless coercive measures are involved, in which case judicial authorization is mandatory. Requests for assistance that do not involve coercion will be executed even in the absence of dual criminality, as long as the grounds for refusal set out in the MLA law do not apply.

The transfer of detainees for the purpose of assisting in investigations can be authorized through the Convention, on the basis of existing MLA treaties or on a reciprocity basis.

The provisions of articles 46(10) to (12) are directly applicable.

Requests sent via fax and e-mail are generally accepted. Oral requests are refused but oral consultations are welcomed.

In principle the requests would be executed on the basis of national legislation to the extent that such execution does not contravene the national law.

Videoconference hearings are commonly carried out by Luxembourg at the request of foreign judicial authorities. This form of assistance is carried out for the hearing of witnesses and experts but not of defendants.

In application of article 13 of the MLA Act, information obtained through MLA may not be used in criminal or administrative proceedings other than that for which the assistance was granted (rule of specialty). Luxembourg ensures confidentiality of the facts and substance of the request if the requesting State so required.

Luxembourg does not refuse MLA if the relevant request also includes tax offences which are accessory to corruption offences. The refusal of an MLA request is always preceded by consultations.

A detailed timeline for the execution of MLA requests is not set out in domestic legislation. However, MLA cases are treated as a priority pursuant to MLA legislation.

Regarding the safe conduct of witnesses, article 11 of the European Convention on Mutual Assistance in Criminal Matters of 1959 is in force in relation to Luxembourg.

The costs of MLA requests are borne by Luxembourg. Judicial fees are borne by Luxembourg even if they are very high.

Documents accessible to the public are provided in the framework of MLA requests requiring no measure of coercion, thus outside of the condition of dual incrimination. All documents not accessible to the public but deemed relevant as a means of evidence in the context of a criminal investigation may be seized by the competent examining judge in accordance with the specific provisions of the CIC and other applicable legal provisions.

Luxembourg is bound by regional instruments on MLA.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Law enforcement authorities engage in broad, consistent and effective cooperation with international counterparts to combat transnational crime, including corruption offences. The Central authority to deal with the cooperation is the Prosecutor's General's Office.

Luxembourg uses several networks such as Europol, INTERPOL, Schengen Information Service, Bureau de Cooperation Policière, COPRECOR and Eurojust, to facilitate the exchange of police information.

For information exchange, Luxembourg uses EGMONT, CARIN, Siena, Europol, and FIU Net.

The measures to provide necessary items of quantities of substances for investigative purposes are successfully implemented, is done through police and judicial channels.

Luxembourg does not have liaison officers on other jurisdictions but on occasion has used liaison officers of neighbouring countries in investigations.

Joint investigation teams (JITs) can be established with other European Union member States. In case other countries requested to carry out such joint investigations, the Convention would be used as legal basis.

With regard to special investigative techniques, systematic surveillance, telephone tapping, the monitoring of banking relations and undercover operations can be carried out. In the context of MLA, the special investigative techniques mentioned can all be carried out at the request of the foreign judicial authorities on the basis of the Convention.

Regarding the use of controlled delivery at the international level, the Convention would be directly applicable.

3.2. Successes and good practices

Overall, the following points are regarded as successes and good practices in the framework of implementing chapter IV of the Convention:

- The establishment of a comprehensive legal framework on international cooperation in criminal matters which encompasses all forms of international cooperation;
- (Arts. 44(1), 46(9) and 43(2)) The flexible interpretation of the double criminality requirement based on the underlying conduct of the offence;
- (Art. 50) The protection of undercover investigators is explicitly provided for by law.

3.3. Challenges in implementation

The following points are brought to the attention of the Luxembourg authorities for their action or consideration (depending on the mandatory or optional nature of the relevant Convention requirements) with a view to enhancing international cooperation to combat offences covered by the Convention:

- (Art. 44(2)) Notwithstanding the flexible interpretation of the double criminality requirement in domestic extradition proceedings, the reviewing experts encouraged the national authorities to explore the possibility of relaxing the strict application of the requirement in cases of Convention-based offences not established in domestic legislation, in line with article 44(2) of the Convention;
- (Arts. 45, 48) Luxembourg is encouraged to consider the expansion of its network of bilateral treaties on transfer of sentenced persons because of the high number of foreign prisoners in its penitentiary institutions;

- (Arts. 46(13), (14)) Notify the Secretary-General of the United Nations about the central authority for processing MLA requests, as well as the acceptable languages;
- (Art. 47) Consider whether it could be appropriate to establish guidelines for the public prosecutor to identify cases, where a transfer of the proceeding is appropriate, and expand the network of treaties with non-European countries;
- (Art. 49) Consider setting up joint investigation teams in cross-border investigations.